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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/735,891

**Applicant(s)**

KLING, BRIAN D.

**Examiner**

AVI GOLD

**Art Unit**

2457

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 and 22-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-640)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is responsive to the pre-appeal brief filed on November 22, 2008.

Claims 1-20 and 22-35 are pending.

#### ***Response to Pre-Appeal Brief***

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1, 16, and 34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitations "non-email broadcast text messaging software", "non-email text messaging server", "a text message in a non-email broadcast format" are not found in the specification. These limitations are negative limitations; see 2173.05(i) of the MPEP for further explanation.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 16, 29, and 34 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention. Regarding the limitation of the claims where a text message is broadcast to a single client by an indication in the subject field; the specification and common definition define a broadcast as a message sent to many users, not a singular user as claimed. In the response, the applicant points to page 12, line 21 through page 13, line 1 of the specification for support. That section discloses a client using subject based addressing technology to capture only those messages intended for it. Clearly, this shows a client can choose what messages to receive based on the subject, but does not teach a client sending a message where the subject field indicates to which client it is sent.

Claims 2-15, 17-20, 22-28, 30-33, and 35 are necessarily rejected as being dependent upon the rejection of claims 1, 16, 29, and 34.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 6-10, 12, 14, 16-19, 23-25, 27, 29, 32, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, U.S. Patent No. 6,014,711, in view of Weitz, U.S. Patent No. 6,455,682, in view of Troen-Krasnow et al., U.S. Patent No.

6,442,250, further in view of Applicant's Admitted Prior Art in the Background of Applicant's Specification, hereinafter referred to by AAPA.

Brown teaches the invention substantially as claimed including services for delivering multimedia messages over a data network (see abstract).

As to claim 1, Brown teaches a method for sending electronic mail from a client operating within a client-server architecture, the method comprising the steps of:

(a) provisioning the client with client non-email messaging software (col. 5, lines 15-20, Brown discloses a telephone subscriber creating a voice mail message);

(b) provisioning a server with server non-email messaging software, wherein the server is in communication with the client (col. 5, lines 15-20, Brown discloses a voice mail system);

(c) transmitting from the client a message in a format of the non-email messaging software, where the message contains the electronic mail (col. 5, lines 20-23, Brown discloses a voice mail system converting the message into email format);

(d) receiving the message at the server (col. 5, lines 20-25, Brown discloses a SMTP host receiving the message);

(e) reformatting the message from a format of the non-email messaging software to a format compatible with an email server (col. 5, lines 20-25); and

(f) forwarding the reformatted message to the email server (col. 5, lines 20-29, Brown discloses messages sent from the SMTP host component to the SMTP host).

Brown fails to teach the limitation further including broadcasting from the client a message in a format of the non-email broadcast messaging software.

However, Weitz teaches a system and method for transmitting and receiving voice and data in multiple modes (see abstract). Weitz teaches the use of a voice mail being broadcast (col. 45, lines 22-54).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown in view of Weitz to broadcasting from the client a message in a format of the non-email broadcast messaging software. One would be motivated to do so because a broadcast provides a user with the ability to effectively and immediately broadcast a single message to a group of individuals.

Brown also fails to teach the limitation further including text messages, broadcast text messaging software wherein broadcasting includes transmitting a message from a single network component to all components on a network.

However, Troen-Krasnow teaches a system and method for transmitting messages to predefined groups (see abstract). Troen-Krasnow teaches the use of a message broadcast unit and text messages being broadcast (col. 3, lines 34-59; col. 4, line 50 – col. 5, line 9; col. 7, lines 10-38).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown in view of Troen-Krasnow to use text messages, broadcast text messaging software, and wherein broadcasting includes transmitting a message from a single network component to all components on a network. One would be motivated to do so because a broadcast provides a subscriber with the ability to

effectively and immediately broadcast a single message to a group of individuals and text messaging is beneficial because it can easily reach wireless mediums.

Brown also fails to teach the limitation further including broadcast text messaging software using subject based addressing wherein text in a subject field of the text message indicates to which client the message is intended.

However, AAPA teaches the use of a server that puts a subject on a message to indicate to which client or clients the message is intended (page 3, lines 19-22).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown to use subject based addressing wherein text in a subject field of the text message indicates to which client the message is intended. One would be motivated to do so because each client would capture messages containing data intended for the client (page 5, lines 10-12).

Regarding claim 2, Brown, Weitz, Troen-Krasnow, and AAPA teach the method of claim 1, wherein broadcasting the text message comprises multicasting the text message to a group of network components in communication with the client, and wherein the server is in the group of network components in communication with the client (Brown, col. 5, lines 15-25).

Regarding claim 3, Brown, Weitz, Troen-Krasnow, and AAPA teach the method of claim 1, wherein broadcasting the text message containing the electronic mail comprises:

(i) identifying a triggering event that precipitates a need for the electronic mail (col. 5, lines 15-25, Brown discloses the voice mail being received);

(ii) determining an email body, an email subject, and an email address for the electronic mail, wherein the email body, the email subject, and the email address correspond to the triggering event (col. 15, lines 20-34, Brown discloses extraction of a unique identifier); and

(iii) instructing the client non-email broadcast text messaging software to broadcast the text message containing the electronic mail, wherein the electronic mail contains the email body, the email subject, and the email address (Brown, col. 5, lines 15-25).

Regarding claim 6, Brown, Weitz, Troen-Krasnow, and AAPA teach the method of claim 3, wherein determining the email body, the email subject, and the email address comprises consulting a database cross-referencing triggering events with email bodies, email subjects, and email addresses (col. 5, lines 20-34, Brown discloses a directory server).

Regarding claim 7, Brown, Weitz, Troen-Krasnow, and AAPA teach the method of claim 3, wherein determining the email body, the email subject, and the email address comprises a user manually entering the email body, the email subject, and the email address into a test program of the client non-email broadcast text messaging software (Brown, col. 5, lines 20-34).



Regarding claims 8 and 32, Brown, Weitz, Troen-Krasnow, and AAPA teach the method of claims 3 and 29, further comprising the step of forwarding the electronic mail from the email server through a network to the email address (col. 6, lines 24-38, Brown discloses email being sent by means of a SMTP host).

Regarding claim 9, Brown, Weitz, Troen-Krasnow, and AAPA teach the method of claim 1, wherein broadcasting the text message containing the electronic mail comprises:

- (i) determining an email body, an email subject, and an email address using data processing software;

- (ii) accessing an application program interface of the data processing software;

- (iii) sending the email body, the email subject, and the email address to the application program interface; and

- (iv) accessing the client non-email text broadcast messaging software with the application program interface and instructing the client non-email text broadcast messaging software to broadcast the text message, wherein the text message contains the email body, the email subject, and the email address (Brown, col. 5, lines 15-34, col. 6, lines 24-38).

Regarding claim 10, Brown, Weitz, Troen-Krasnow, and AAPA teach the method of claim 1, further comprising forwarding the electronic mail from the email server through a network to an email address (Brown, col. 6, lines 24-38).

Regarding claim 12, Brown, Weitz, Troen-Krasnow, and AAPA teach the method claim 1, wherein the message includes a subject in accordance with subject-based addressing of the client non-email text broadcast messaging software and the server broadcast text messaging server, and wherein the server is configured to recognize the subject and read the text message (Brown, col. 6, lines 24-38).

Regarding claims 14 and 24, Brown, Weitz, Troen-Krasnow, and AAPA teach the method and system of claims 1 and 16, wherein the client non-email broadcast text messaging software is different from, but compatible with, the server non-email text broadcast messaging software (Brown, col. 5, line 15-34).

As to claim 16, Brown teaches a system for sending an electronic mail from a client in a client-server architecture, the system comprising:

(a) a plurality of clients, wherein each client of the plurality of clients contains client non-email messaging software, data processing software, and a client application program interface, and wherein each client is in communication with the plurality of clients;

(b) a non-email messaging server in communication with the plurality of clients, wherein the non-email messaging server contains server non-email messaging software and an email application program interface, wherein the email application program interface is adapted to receive a message containing the electronic mail and reformat the message from a format compatible with the server non-email messaging software to a format compatible with an email server; and

(c) an email server in communication with the messaging server (col. 5, lines 15-34, col. 6, lines 24-38).

Brown fails to teach the limitation further including broadcasting from the client a message in a format of the non-email broadcast messaging software.

However, Weitz teaches the use of a voice mail being broadcast (col. 45, lines 22-54).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown in view of Weitz to broadcasting from the client a message in a format of the non-email broadcast messaging software. One would be motivated to do so because a broadcast provides a user with the ability to effectively and immediately broadcast a single message to a group of individuals.

Brown also fails to teach the limitation further including text messages, broadcast text messaging software wherein broadcasting includes transmitting a message from a single network component to all components on a network.

However, Troen-Krasnow teaches the use of a message broadcast unit and text messages being broadcast (col. 3, lines 34-59; col. 4, line 50 – col. 5, line 9; col. 7, lines 10-38).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown in view of Troen-Krasnow to use text messages, broadcast text messaging software, and wherein broadcasting includes transmitting a message from a single network component to all components on a network. One would be motivated to do so because a broadcast provides a subscriber with the ability to effectively and immediately broadcast a single message to a group of individuals and text messaging is beneficial because it can easily reach wireless mediums.

Brown also fails to teach the limitation further including broadcast text messaging software using subject based addressing wherein text in a subject field of the text message indicates to which client the message is intended.

However, AAPA teaches the use of a server that puts a subject on a message to indicate to which client or clients the message is intended (page 3, lines 19-22).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown to use subject based addressing wherein text in a subject field of the text message indicates to which client the message is intended. One would be motivated to do so because each client would capture messages containing data intended for the client (page 5, lines 10-12).

As to claim 17, Brown, Weitz, Troen-Krasnow, and AAPA teach the system of claim 16, wherein the data processing software monitors for a triggering event requiring email and determines an email body, an email subject, and an email address for the electronic mail, wherein the email body, the email subject, and the email address correspond to the triggering event (Brown, col. 5, lines 15-34).

As to claim 18, Brown, Weitz, Troen-Krasnow, and AAPA teach the system of claim 16, wherein the data processing software is a testing program of the client non-email text messaging software through which a user can enter an email body, an email subject, and an email address for the electronic mail (Brown, col. 5, lines 15-34).

As to claim 19, Brown, Weitz, Troen-Krasnow, and AAPA teach the system of claim 16, wherein the client application program interface is adapted to instruct the client non-email broadcast text messaging software to send a message text containing the electronic mail to the text messaging server (Brown, col. 3, lines 3-24).

As to claim 23, Brown, Weitz, Troen-Krasnow, and AAPA teach the system of claim 16, wherein the client non-email broadcast text messaging software enables broadcasts and multicasts from the plurality of clients (Brown, col. 5, lines 15-34).

As to claim 25, Brown, Weitz, Troen-Krasnow, and AAPA teach the system of claim 16, wherein the client non-email broadcast text messaging software is the same

as the server non-email broadcast text messaging software (Brown, col. 5, lines 15-34, col. 6, lines 24-38).

As to claim 27, Brown, Weitz, Troen-Krasnow, and AAPA teach the system of claim 16, wherein the email server is adapted to receive the electronic mail and forward the electronic mail through a network (Brown, col. 5, lines 15-25).

As to claims 29 and 34, Brown teaches a method and system for sending an electronic mail comprising:

(a) transmitting from a client computer a message in a format, wherein the message contains the electronic email, wherein the client computer is part of a client-server architecture, and wherein the client computer does not have electronic mail software;

(b) receiving the message at a server computer of the client-server architecture (col. 3, lines 31-65).

(c) reformatting the message from a format to an email format; and

(d) forwarding the reformatted message to an email server that is compatible with the email format (col. 5, lines 15-34, col. 6, lines 24-38).

Brown fails to teach the limitation further including broadcasting from the client a message in a format of the non-email broadcast messaging software.

However, Weitz teaches the use of a voice mail being broadcast (col. 45, lines 22-54).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown in view of Weitz to broadcasting from the client a message in a format of the non-email broadcast messaging software. One would be motivated to do so because a broadcast provides a user with the ability to effectively and immediately broadcast a single message to a group of individuals.

Brown also fails to teach the limitation further including text messages, broadcast text messaging software wherein broadcasting includes transmitting a message from a single network component to all components on a network.

However, Troen-Krasnow teaches the use of a message broadcast unit and text messages being broadcast (col. 3, lines 34-59; col. 4, line 50 – col. 5, line 9; col. 7, lines 10-38).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown in view of Troen-Krasnow to use text messages, broadcast text messaging software, and wherein broadcasting includes transmitting a message from a single network component to all components on a network. One would be motivated to do so because a broadcast provides a subscriber with the ability to effectively and immediately broadcast a single message to a group of individuals and text messaging is beneficial because it can easily reach wireless mediums.

Brown also fails to teach the limitation further including broadcast text messaging software using subject based addressing wherein text in a subject field of the text message indicates to which client the message is intended.

However, AAPA teaches the use of a server that puts a subject on a message to indicate to which client or clients the message is intended (page 3, lines 19-22).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown to use subject based addressing wherein text in a subject field of the text message indicates to which client the message is intended. One would be motivated to do so because each client would capture messages containing data intended for the client (page 5, lines 10-12).

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Weitz, Troen-Krasnow, and AAPA further in view of Chuah et al., U.S. Patent No. 6,400,722.

Brown teaches the invention substantially as claimed including services for delivering multimedia messages over a data network (see abstract). Troen-Krasnow teaches the invention substantially as claimed including a system and method for transmitting messages to predefined groups (see abstract). Weitz teaches the invention substantially as claimed including a system and method for transmitting and receiving voice and data in multiple modes (see abstract).

As to claim 4, Brown, Weitz, Troen-Krasnow, and AAPA teach the method of claim 3.

Brown, Weitz, Troen-Krasnow, and AAPA fail to teach the limitation further including the client monitoring data traffic in a digital wireless packet switching network



and the triggering event is an overload on network capacity that requires a change in traffic routing.

However, Chuah teaches the optimization of routing mobile end systems to desired communications servers (see abstract). Chuah teaches the use of wireless packet switching (col. 2, lines 43-62).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown, Weitz, Troen-Krasnow, and AAPA in view of Chuah to use a digital wireless packet switching network and the triggering event as an overload on network capacity that requires a change in traffic routing. One would be motivated to do so because the broadcast could be used to alert users of the change in traffic routing.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Weitz, Troen-Krasnow, and AAPA further in view of Kozdon et al., U.S. Patent No. 6,456,601.

As to claim 5, Brown, Weitz, Troen-Krasnow, and AAPA teach the method of claim 3.

Brown, Weitz, Troen-Krasnow, and AAPA fail to teach the limitation further including the client monitoring hard disk space on other clients, and the triggering event is a shortage of hard disk space.

However, Kozdon teaches a method and system for providing call progress tones and audible announcements in a distributed, packetized network environment (see abstract). Kozdon teaches the use of need for more storage (col. 2; lines 5-25).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown, Weitz, Troen-Krasnow, and AAPA in view of Kozdon to use a client monitoring hard disk space on other clients, and the triggering event as a shortage of hard disk space. One would be motivated to do so because the broadcast could be used to alert users of the shortage of hard disk space.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Weitz, Troen-Krasnow, and AAPA further in view of Rogers et al., U.S. Patent No. 6,301,484.

As to claim 11, Brown, Weitz, Troen-Krasnow, and AAPA teach the method of claims 1 and 10.

Brown, Weitz, Troen-Krasnow, and AAPA fail to teach the limitation further including the email address is an email address of a wireless pager.

However, Rogers teaches a method and apparatus for remote control of software and hardware features in a wireless communication device using Short Message Services (see abstract). Rogers teaches the use of email on a wireless device (col. 3, lines 58-67; col. 4, lines 1-18).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown, Weitz, Troen-Krasnow, and AAPA in view of Rogers to use an email address of a wireless pager. One would be motivated to do so because the important messages could be broadcast to users away from their computers.

10. Claims 13, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Weitz, Troen-Krasnow, and AAPA further in view of Bookspan et al., U.S. Patent No. 6,636,888.

As to claim 13, Brown, Weitz, Troen-Krasnow, and AAPA teach the method of claim 1.

Brown, Weitz, Troen-Krasnow, and AAPA fail to teach the limitation further including the use of the making the format compatible with the email server is Messaging Application Program Interface (MAPI).

However, Bookspan teaches the scheduling of presentation broadcasts in an integrated network environment (see abstract). Bookspan shows evidence of the use of MAPI (col. 14, lines 25-36).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown, Weitz, Troen-Krasnow, and AAPA in view of Bookspan to use MAPI. One would be motivated to do so because it provides a consistent interface that is well known in use for email servers.

As to claims 20 and 22, Brown, Weitz, Troen-Krasnow, and AAPA teach the method of claim 16.

Brown, Weitz, Troen-Krasnow, and AAPA fail to teach the limitation further including the client and email application program interface are one of a dynamic link library, a control, and an object module.

However, Bookspan teaches the scheduling of presentation broadcasts in an integrated network environment (see abstract). Bookspan shows evidence of the use of dynamic link library, a control, and an object module (col. 20).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown, Weitz, Troen-Krasnow, and AAPA in view of Bookspan to use a dynamic link library, a control, and an object module. One would be motivated to do so because they provide appropriate functionality to the API.

11. Claims 15, 26, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Weitz, Troen-Krasnow, and AAPA further in view of Lewis, U.S. Patent No. 6,513,019.

As to claims 15, 26, and 30, Brown, Weitz, Troen-Krasnow, and AAPA teach the method and system of claims 1, 16, and 29.

Brown, Weitz, Troen-Krasnow, and AAPA fail to teach the limitation further including the client non-email text broadcast messaging software and the server non-email broadcast text messaging software are TIB Rendezvous.

However, Lewis teaches a data processing system that provides substantial throughput for consolidation, integration, structuring, storage and distribution of financial data (see abstract). Lewis shows evidence of the use of TIB Rendezvous (col. 9, lines 60-67; col. 10, lines 1-5).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown, Weitz, Troen-Krasnow, and AAPA in view of Lewis to use

TIB Rendezvous. One would be motivated to do so because it is a well-known software used in messaging.

12. Claims 28 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Weitz, Troen-Krasnow, and AAPA further in view of Ooe, U.S. Patent No. 6,330,238.

As to claims 28 and 31, Brown, Weitz, Troen-Krasnow, and AAPA teach the method of claims 16 and 29.

Brown, Weitz, Troen-Krasnow, and AAPA fail to teach the limitation further including the server non-email broadcast text messaging software and the email application program interface are a single Transaction Control Protocol / Internet Protocol program and the client computer uses Transaction Control Protocol / Internet Protocol software to broadcast the text message containing the electronic mail, and wherein the server computer uses Transaction Control Protocol / Internet Protocol software to receive the text message.

However, Ooe teaches a multicast transmission method of transmitting data to a plurality of nodes belonging to a specific group in a communication network based upon a protocol such as TCP/IP (see abstract). Ooe shows evidence of the use of TCP/IP for email and broadcast.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown, Weitz, Troen-Krasnow, and AAPA in view of Ooe to use

TCP/IP for email and broadcast. One would be motivated to do so because TCP/IP is a well-known protocol used for messaging.

13. Claims 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Weitz, Troen-Krasnow, and AAPA in view of Lewis, U.S. Patent No. 6,513,019, further in view of Bookspan et al., U.S. Patent No. 6,636,888

As to claims 33 and 35, Brown and Troen-Krasnow teach the method and system of claims 29 and 34.

Brown, Weitz, Troen-Krasnow, and AAPA fail to teach the limitation further including the non-email broadcast format is a TIB Rendezvous format and the email format is a Messaging Application Program Interface (MAPI) format.

However, Lewis teaches a data processing system that provides substantial throughput for consolidation, integration, structuring, storage and distribution of financial data (see abstract). Lewis shows evidence of the use of TIB Rendezvous (col. 9, lines 60-67; col. 10, lines 1-5).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown, Weitz, Troen-Krasnow, and AAPA in view of Lewis to use TIB Rendezvous. One would be motivated to do so because it is a well-known software used in messaging

Brown, Weitz, Troen-Krasnow, AAPA, and Lewis fail to teach the limitation further including the email format is a Messaging Application Program Interface (MAPI) format.

However, Bookspan teaches the scheduling of presentation broadcasts in an integrated network environment (see abstract). Bookspan shows evidence of the use of MAPI (col. 14, lines 25-36).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown, Weitz, Troen-Krasnow, AAPA, and Lewis in view of Bookspan to use MAPI. One would be motivated to do so because it provides a consistent interface that is well known in use for email servers.

### ***Response to Arguments***

14. Applicant's arguments with respect to claims 1-20 and 22-35 have been considered but are moot in view of the new ground(s) of rejection.

15. Applicant's arguments, regarding the 112 2<sup>nd</sup> paragraph rejection of claims 1, 16, 29, and 34, filed December 24, 2008 have been fully considered but they are not persuasive.

The 112, second paragraph rejection, of claims 1, 16, 29, and 34, remains, as the claims are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding the limitation of the claims where a text message is broadcast to a single client by an indication in the subject field; the specification and common definition define a broadcast as a message sent to many users, not a singular user as claimed. The applicant points to page 12, line 21 through page 13, line 1 of the specification for support. That section discloses a client using

subject based addressing technology to capture only those messages intended for it. Clearly, this shows a client can choose what messages to receive based on the subject, but does not teach a client sending a message where the subject field indicates to which client it is sent. The applicant argues that if a receiver can determine which messages are intended for it based on the subject, the sender must have entered a subject by which the sender can make the determination; and therefore the specification infers that the sender uses subject based addressing to indicate the intended receiver of the messages. The examiner believes this inference to be incorrect; the sender enters a subject of a broadcast to label the summarize the subject matter of the broadcast, it is not entered to as an addressing method to an intended receiver. It is clearly shown in the specification that a subject can be used as a way for a client to receive broadcasts that they may be interested in.

In addition, the applicant argues that claim 16 is clearly supported because the "application program is adapted to receive a text message wherein text in a subject field of the text message indicated an intended recipient." The application program receiving a text message does not remedy the issue that the text in a subject field indicating an intended recipient is not found in the specification.

The Examiner recommends the Applicant schedules an interview, prior to submitting an amendment, to clarify these and other issues.



***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,003,070 to Frantz.

U.S. Pat. No. 6,356,356 to Miller et al.

U.S. Pat. No. 6,556,835 to Raivisto.

U.S. Pat. No. 6,421,706 to McNeill et al.

U.S. Pat. No. 6,085,101 to Jain et al.

U.S. Pat. No. 5,632,018 to Otorii

U.S. Pat. No. 6,470,385 to Nakashima et al.

U.S. Pat. No. 6,856,432 to Bobrow et al.

U.S. Pat. No. 6,665,667 to Inaba et al.

U.S. Pat. No. 6,335,928 to Herrmann et al.

U.S. Pat. No. 6,625,646 to Kamanaka et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AVI GOLD whose telephone number is (571)272-4002. The examiner can normally be reached on M-F 8:00-5:30 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2457

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Avi Gold

Patent Examiner

Art Unit 2457

AMG

/ARIO ETIENNE/

Supervisory Patent Examiner, Art Unit 2457